THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No. 19297 of 2006

Date 18-09-2006

Between:

Md. Sahajahan.

..... PETITIONER

AND

The Divisional Railway Manager, East Coast Railway, Waltair, Visakhapatnam and others.

.....RESPONDENTS

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION No.19297 of 2006

O R D E R :

The petitioner was appointed as a Commission Agent by the respondents for the purpose of selling tickets to the passengers at the scheduled rates at Marripalem passenger halt situated between Visakhapatnam and Simhachalam. To that effect, an agreement was executed between the parties which came into force with effect form 01-07-2004 for a period of five years. While so, the impugned order was passed by the first respondent terminating the contract on the ground that a crime was registered against the petitioner by the RPF, Visakhapatnam under Section 3(a) of the Railway Protection (Unlawful Possession) Act and that he was taken into custody in connection with missing of tickets in General Booking Office, Visakhapatnam. The said order is under challenge in this writ petition contending *inter alia* that the impugned order of termination, which was passed without affording any opportunity to the petitioner to put forth his version, is arbitrary, illegal and violation of the principles of natural justice.

I have heard the learned counsel for the petitioner and the learned standing counsel appearing for the respondents.

Though under clause 15 of the agreement, the respondents are entitled to terminate the agreement where the Commission Agent fails to carry out the contract to the satisfaction of the respondents or where he is guilty of any breach of terms of the

contact, the learned counsel for the petitioner contends that the impugned order of termination which was passed on the basis of unfounded allegations without notice to the petitioner is not in conformity with the fundamental principles of natural justice.

Nothing has been placed before this Court to show that such notice was served on the petitioner before passing the impugned order. In the circumstances, I am of the opinion that the impugned order is liable to be set-aside on that ground alone. Accordingly, without expressing any opinion as to the correctness of the allegations made against the petitioner, the impugned order is set aside and the writ petition is disposed of leaving it open to the respondents to pass appropriate orders following due process of law. No order as to costs.

_____

18-09-2006

Note:Furnish copy by tomorrow
bo
usd